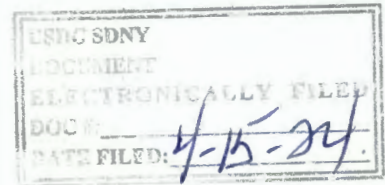


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- X
UNITED STATES OF AMERICA,

-against-

17-cr-0791 (LAK)

THERYN JONES, et al.,

Defendants.
----- X

ORDER

LEWIS A. KAPLAN, *District Judge*.

The Court is in receipt of Mr. Jones' *ex parte* request for the appointment of counsel from the district's *habeas* panel. Mr. Jones' trial counsel states that he cannot continue in his representation of Mr. Jones during his *habeas* petition due to the possibility of filing an ineffective assistance of counsel claim.

The Criminal Justice Act authorizes the Court to appoint counsel for a person seeking relief under § 2255 when they are "financially eligible" and when "the interests of justice so require."¹ "Courts in this circuit consider factors such as the petitioner's likelihood of success on the merits, the complexity of the legal issues raised by the petition, and the petitioner's ability to investigate and present the case."²

While Mr. Jones has submitted a financial affidavit alleging his financial eligibility for appointed counsel (Dkt 306), the Court lacks any basis to form a judgment as to whether Mr. Jones' hypothetical *habeas* petition would possess "some likelihood of merit,"³ let alone its complexity or Mr. Jones' ability to investigate and present it. Mr. Jones' request for the appointment

1

18 U.S.C.A. § 3006A; *see also United States v. Doe*, No. 01-CR-782 (GEL), 2005 WL 167601, at *1 (S.D.N.Y. Jan. 25, 2005).

2

Doe, 2005 WL 167601, at *1 (citing *Toron v. United States*, 281 F.Supp.2d 591, 593 (E.D.N.Y.2003)).

3

Id. (citing *Duran v. Reno*, 193 F.3d 82, 84 (2d Cir. 1999)).

of counsel is therefore denied without prejudice, subject to later review by the Court upon submission of a § 2255 motion or some other filing demonstrating likelihood of merit.

SO ORDERED.

Dated: April 15, 2024

A handwritten signature in black ink, appearing to read "Lewis A. Kaplan", is written over a horizontal line.

Lewis A. Kaplan
United States District Judge